

THE DISTRICT OF COLUMBIA

2005

LOW INCOME HOUSING TAX CREDIT

QUALIFIED ALLOCATION PLAN

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INTRODUCTION

The Tax Reform Act of 1986 established the Federal Low Income Housing Tax Credit ("LIHTC") Program. The LIHTC program was subsequently made permanent by the Revenue Reconciliation Act of 1993 as further amended by The Community Renewal Tax Relief Act of 2000. The program was created to encourage the private sector to invest in the construction and rehabilitation of housing for low and moderate-income individuals and families. Project owner/investors claim the LIHTC on their Federal income tax return each year for a period of ten years. However, projects generally must meet certain requirements for low-income use for thirty years. The Mayor delegated the authority and assigned the responsibility of administering the LIHTC program to the District of Columbia Department of Housing and Community Development ("DHCD") in Mayor's Order 87-72, dated March 18, 1987.

QUALIFIED ALLOCATION PLAN

Federal law requires jurisdictions to adopt a plan to allocate the LIHTC to projects based on federally mandated requirements and priority needs determined by the District of Columbia ("District"). The District's Low Income Housing Tax Credit Qualified Allocation Plan (the "QAP") is intended to ensure the selection of only those projects that comply with Federal law and address, on a priority basis, the housing needs of the District. There are two types of LIHTC's; 1) from the District's Per-Capita Credit Ceiling; and 2) an automatic four percent 4% present-value LIHTC issued to qualifying projects financed with tax-exempt bonds. The per-capita LIHTC is competitively awarded to eligible housing projects based on the selection criteria set forth in the DHCD Low Income Housing Tax Credit Program Guidelines and Procedures, and the annual Public Notice of Funding Availability/Request for Proposals (NOFA/RFP) ("Notice"). The Notice shall articulate in detail the housing needs, targeted locations, specific program goals, and ranking criteria for the subject allocation period and include the application with required exhibits.

These allocation procedures shall govern the award of the District's LIHTC and shall apply to residential rental housing financed by: (1) private lenders; (2) taxable bonds; and (3) local or Federal loan programs. These procedures shall automatically renew themselves annually, unless amended, replaced or rescinded. The Mayor of the District of Columbia has the sole authority to amend, replace or rescinded the QAP.

Projects financed with certain tax-exempt bonds may be eligible to receive a four percent (4%) present-value LIHTC without regard to the District's Per-Capita Credit ceiling. Although tax-exempt bond financed projects need not compete for an allocation through the competitive process, they shall be evaluated against the threshold criteria established in Section 42 of the Internal Revenue Code ("IRC") and they must comply with the monitoring procedures contained in the District of Columbia, Department of Housing and Community Development's Low Income Housing Tax Credit Program Compliance Manual (CM), which is incorporated by reference herein.

Determining the LIHTC - The Tax Credits are generally provided to project owners in equal annual installments over a 10-year period. The Tax Credits may not exceed the applicable

percentage of the qualified basis of each low income building in the project as defined in Section 42(d) of the Code. The applicable percentage is the percentage that will yield, over the 10-year Tax Credit period, Tax Credits with a present value equal to either 70% or 30% of the qualified basis of the building. New construction and rehabilitation projects that are not federally subsidized are eligible for the 70% present value Tax Credit. Projects financed with Federal funds or involving the acquisition of existing buildings (when combined with eligible rehabilitation) are eligible for the 30% present value Tax Credit.

Tax Credit Amount Available. - The amount of Tax Credits available for the District to allocate in each calendar year reflects the sum of the amounts allowed as the State Tax Credit Ceiling under IRC Section 42(h)(3)(C). This amount may be increased by returned Tax Credits from prior years, Tax Credits allocated to the District from the national Tax Credit pool or by new legislation increasing the amount of Tax Credits distributed to each state. Any unallocated or Recovered Tax Credits or a combination of both may be awarded as part of the current year cycle(s) of awards for Tax Credits, or may be carried over to the next year's cycle(s) of awards at the discretion of the DHCD.

APPLICATION PROCESS

Applications will be accepted and reviewed during one or more scheduled rounds of competition. DHCD will provide public notice concerning the schedule of the competitive round(s) for the reservation of LIHTC. The Notice will provide application deadline dates. DHCD has established a goal to announce competition results within 45 to 60 days of the application deadline dates. Only projects that meet the threshold requirements set forth in the QAP will be rated and ranked in the competitive round(s).

Eligible Sponsors - Profit-motivated and non-profit sponsors are eligible to apply for a reservation of LIHTC to fund residential rental property located in the District of Columbia.

Director's Special Initiatives Program - The Director may utilize up to twenty-five percent (25%) of any annual per capita allocation and any unallocated carryover of a prior year allocation as a Director's Special Initiatives program for stimulating development in any targeted area.

Tax-Exempt Bond Financed Projects - Projects financed with the proceeds of District of Columbia issued tax-exempt bonds may be eligible to receive four percent (4%) present-value LIHTC that is exempt from the District's Per-Capita Credit Ceiling. When 50% or more of the development and acquisition costs are financed with the proceeds of these tax-exempt bonds, sponsors may be eligible for four percent (4%) present-value LIHTC on the entire qualified basis of their projects. If less than 50% of costs are financed with the proceeds of these tax-exempt bonds, sponsors may be eligible to receive LIHTC on the portion of the qualified basis financed with the bonds. The District's Housing Finance Agency ("DCHFA") issues the tax-exempt bonds and DHCD issues the tax credits and work cooperatively through an inter-agency agreement to allocate tax credits on tax-exempt bond financed developments.

To receive LIHTC for projects financed with qualified tax-exempt bonds, sponsors must first apply to the DCHFA. Prior to the project going to a closing on the tax-exempt bonds the tax-

exempt bond-financed projects are required to submit an initial application to DHCD for the allocation of tax credits. The application is a request to DHCD for a letter from DHCD stating that DHCD will underwrite the project in accordance with the requirements of § 42 of Internal Revenue Code. Consistent with an inter-agency agreement DHCD will not duplicate the DCHFA underwriting of tax-exempt bonds projects and will accept and rely on the DCHFA determination of the financial feasibility in DHCD's underwriting of the tax credit allocation as required by § 42 of Internal Revenue Code.

After construction is completed and the project is placed in service, the project sponsor requests of DHCD, via application, that IRS Forms 8609 be issued. The 8609 is the document that allocates the tax credits. The application is comprised of: 1) a revised proforma, adjusted to the final development cost, as reflected on the cost certification prepared by the projects' CPA, 2) a copy of the Cost Certification, 3) a draft of the 8609 form for each building in the project, 4) copies of the required DC licenses, 5) a copy of the certificate of occupancy for each building and 6) evidence of a recorded Restrictive Covenant. These projects shall also be required to comply with the monitoring provisions of the QAP.

FEES

The LIHTC program has substantial duties and responsibilities mandated by § 42 of IRC. In order to defray the management and operational costs of the program, fees are charged. The fees fall into two categories: 1) Issuance Cost and 2) Compliance Cost. Full and timely payment of all fees is a determinate of every allocation. Non-payment of Compliance Fees is grounds for issuance of Form 8823 to the IRS.

Fee Structure

A. Issuance Cost

The Issuance Cost consists of three parts for the Per Capita Allocation Projects - (Application, Reservation and Allocation). Each portion is assessed and due at particular times in the application-allocation process. 1) An application is not complete if not accompanied by a check for the application fee. 2) The Tax Credit Reservation Fee is payable at the time the Tax Credit Reservation is accepted; and 3) The Tax Credit Allocation Fee is payable at the time the Tax Credit Carry-Over Allocation is requested. The Reservation Fee and the Allocation Fee together equal 1% of the value of the Total Ten Year Allocation. The Reservation Fee is one-half (½) of 1% of the value of the Total Ten-Year Allocation and the Allocation Fee is the remaining 50%. Each of the components of the Issuance Cost is non-refundable.

a. Application Fee

i. The Application Fee for Non-Profit Developers is \$ 200.00

ii. The Application Fee for For-Profit Developers is \$ 500.00

b. Reservation Fee

The Reservation Fee is assessed at the time a reservation is given to a developer and the amount is due in full at the time the developer accepts the reservation. Included in the reservation letter is an acceptance certification to be executed by the developer and returned to DHCD evidencing the acceptance of the reservation. No reservation will be valid if not accompanied by the reservation fee.

- 1) The Reservation Fee shall be 1/2 of 1% of the value of the Total Ten Year Allocation for the Project.

c. Allocation Fee on Per Capita Allocation Projects

The Allocation Fee is assessed at the time the DHCD issues the carry-over allocation to the project. The carry-over allocation is applied for by the developer by submitting an application to DHCD which is comprised of a revised proforma which reflects the revised development budget, which is prepared by the projects' CPA, accompanied by the accountant's certification that ten per cent (10%) of the projected development cost has been expended. A check for the remaining fifty per cent (50%) balance of the Allocation Fee must also be remitted with the Application.

- 1) The Allocation Fee shall be one half (1/2) of one per cent (1%) of the value of the Total Ten Year Allocation for the Project.

d. Allocation Fee on Tax Exempt Bond Projects

Projects financed with Tax Exempt Bonds may qualify for an automatic allocation of four percent (4%) tax credits. An Allocation Fee of one percent (1%) of the value of the Total Ten Year Allocation for the Project is assessed and collected. The HFA collects part and DHCD collects the other part. The HFA charges and collects 60% of the one percent (1%) of the value of the Total Ten Year Allocation at the time of the Bond Closing. DHCD charges and collects the remaining 40% of the one percent (1%) of the value of the Total Ten Year Allocation in two installments.

- i. The tax-exempt bond-financed projects are required to submit an initial application to DHCD for the allocation of tax credits prior to the project going to closing on the tax-exempt bonds. The application is a request for a letter from DHCD stating that DHCD will underwrite the project in accordance with the requirements of § 42 of Internal Revenue Code. At the

time of application, the sponsor is required to pay the first installment of the remaining **40%** fee, which is **15%** of the one percent (1%) of the value of the Total Ten Year Allocation.

- ii. The remaining **25%** of the one percent (1%) of the value of the Total Ten Year Allocation will be assessed when the project sponsor requests DHCD, by way of application, to issue the IRS Form(s) 8609 for the project. The application must consists of:

- a revised proforma, adjusted to reflect the final development cost and reflected on the cost certification prepared by the project 's CPA.
- a copy of the Cost Certification
- a draft of the Form 8609(s) for each building in the project,
- copies of the required DC licenses,
- a copy of the recorded Restrictive Covenant,
- a copy of the certificate of occupancy for each building, and
- a check for the remaining 25% balance of the one percent (1%) of the value of the Total Ten Year Allocation Fee.

e. **Extension Fee**

Extension of Time to Satisfy Requirements for Allocations

Sponsors unable to meet the requirements to receive an allocation of LIHTC within the period required in their reservation may request an extension of the reservation. All sponsors must pay a nonrefundable fee of One Thousand Dollars (\$1,000.00) for each project for which an extension of the reservation is requested. The fee must be paid at the time the extension is requested and will be refunded only in the event that the request for an extension is denied.

Extension of Time to Satisfy Requirements for Carryover Allocation

Sponsors unable to meet the deadline for meeting the requirements for a carryover allocation (see "Allocation" below) may request an extension of the deadline prescribed in the Code. All sponsors must pay a nonrefundable extension fee of One Thousand Dollars (\$1,000.00) for each month and for each project for which an extension of time is requested. The fee must be paid at the time the extension request is submitted.